



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

## Status Conference

Frank DOD: 8/15/2006		<p><b>BARBARA L. PEARSON</b>, Trustors' daughter, Trust Beneficiary and Successor Trustee of the <b>LABREE FAMILY TRUST</b> dated 4/13/1981, filed on 10/5/2012 a <b>Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust</b>, which was set for hearing on 11/29/2012.</p> <p><b>TRACY SPREIER</b>, Trustors' daughter and Trust Beneficiary, filed on 11/16/2012 <b>Objections to the Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust</b>, alleging self-dealing and breach of fiduciary duties by the Trustee.</p> <p><b>Joint Status Report filed 6/19/2013 states:</b></p> <ul style="list-style-type: none"> <li>Ms. Spreier's <i>Objection</i> to Ms. Pearson's <i>Petition</i> contains objections to: (a) the inclusion in the accounting of a diamond ring that Ms. Spreier received from the deceased Co-Settlor, Roberta LaBree, prior to Ms. LaBree's death; (b) the alleged value of said diamond ring and Ms. Pearson's reliance on an appraisal; (c) Ms. Pearson's payment, from Trust funds, for an appraisal of certain real property that had been gifted by the deceased Co-Settlor, Roberta LaBree, to her three daughters in 2010; (d) Ms. Pearson's payment for an appraisal of Trust real property that she ultimately decided not to use in valuing the real property; (e) Ms. Pearson's liquidation of certain Trust investments; (f) Ms. Pearson's use of Trust funds to pay for expenses related to Roberta LaBree's funeral; (g) the compensation received by Ms. Pearson for services provided by her as Successor Trustee; and (h) the compensation paid by Ms. Pearson to her attorneys, Dowling Aaron, Inc., for services provided by the firm to Ms. Pearson as Successor Trustee;</li> </ul> <p style="text-align: center;">~Please see additional page~</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Page 5B</b> is the <i>Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust</i>.</p> <p><b>Page 7</b> is the related matter of the <i>Frank H. Labree Irrevocable Trust</i> (12CEPR00893.)</p> <p><b>Continued from 5/10/2013.</b> Minute Order states Mr. Werner is appearing via conference call. Ms. Burnside advises the Court that they are making progress and she believes counsel will continue to meet and confer in an effort to resolve this matter. Matter continued to 6/28/2013.</p> <p><b>Note:</b> Joint Status Report filed 6/19/2013 indicates the deposition of a former caregiver of Decedent is scheduled for <b>7/26/2013</b> in Bullhead City, Arizona.</p>
Roberta DOD: 3/25/2012			
Cont. from 011813, 032213, 051013			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
PTC			
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Objections			
Video Receipt			
CI Report			
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Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 6/21/13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 5A - LaBree</b></p>	

**Joint Status Report filed 6/19/2013, continued:**

- On 11/14/2012, Ms. Pearson filed a Declaration in which she detailed the services provided by her during the account period and for which she has requested compensation of **\$25,055.50**;
- On 11/26/2012, Ms. Pearson filed a Reply addressing many of the issues raised in the Objection;
- On 12/14/2012, Ms. Pearson's attorneys filed a Declaration detailing the services provided by them on behalf of Ms. Pearson;
- On 1/15/2013, Ms. Pearson filed a further Declaration detailing the services provided by her and for which she has already received compensation in the amount of **\$14,302.50**;
- As a result of the additional information provided by Petitioner's attorneys, and as a result of some discussions regarding the matters, some of the issues have been able to be resolved on an informal basis at this time;
- In furtherance of her written objections to the remaining issues pertaining to the accounting, Ms. Spreier served written discovery on Ms. Pearson, to which Ms. Pearson provided responses and produced documents;
- Counsel for Ms. Spreier, David Werner, is in the process of reviewing the responses and documentation provided by Ms. Pearson;
- Ms. Pearson has noticed the deposition of one of the Decedent's caregivers in Arizona, **DONNA PAYNE**, scheduled for **7/26/2013** in Bullhead City, Arizona; Ms. Pearson believes the caregiver may have information related to the disputed diamond ring;
- In the meantime, the attorneys for the parties expect to continue to meet and confer with regard to the remaining issues, as appropriate and as the matter progresses, in order to determine whether there is a basis upon which the matters that remain at issue can be resolved between themselves.

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

**Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust; and Approval of Trustee Fees [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]**

Frank DOD: 8/15/2006		<p><b>BARBARA L. PEARSON</b>, Trustors' daughter, Trust Beneficiary and Successor Trustee of the <b>LABREE FAMILY TRUST</b>, is Petitioner.</p> <p>Account period: 3/25/2011 – 2/29/2012</p> <p>Accounting - <b>\$1,735,662.68</b>          Beginning POH - <b>\$1,627,499.40</b>          Ending POH - <b>\$1,563,236.09</b>          (\$1,899,065.77 is cash; cash balance exceeds ending property on hand balance due to negative \$518,182.00 amount held in constructive trust by Trustee for the benefit of the Frank H. LaBree Exemption Trust.)</p> <p>Trustee - <b>\$25,066.50</b>          (per Declaration filed 11/14/2012 containing itemization for 294.90 hours @ \$85.00/hour. NOTE: Trustee has previously been paid compensation of <b>\$14,302.50</b> (not itemized) from the Trust for this account period without court order per Trust terms entitling Trustee to reasonable compensation for services rendered as Trustee; )</p> <p>Attorney - <b>\$53,312.30 (paid)</b>          (to Dowling Aaron &amp; Keeler/Dowling Aaron, as listed in Disbursements schedule; not itemized other than for legal fees)</p> <p>Accountant - <b>\$1,405.00 (paid)</b>          (to Erickson &amp; Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson &amp; Assoc.)</p> <p><b>Petitioner states:</b></p> <ul style="list-style-type: none"> <li><b>ROBERTA LABREE</b> and <b>FRANK H. LABREE, Jr.</b>, created the <b>LABREE FAMILY TRUST</b> on 4/13/1981, as amended on 5/2/1984, and as amended in full on 12/20/1991, and were the original co-trustees until Frank's death on 8/15/2006, when Roberta became the sole Trustee, and the Trust served as the Survivor's Trust for Roberta;</li> </ul>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Continued from 5/10/2013.</u> Minute Order states Mr. Werner is appearing via conference call. Matter continued to 6/28/2013.</p> <p><b>Note:</b> Additional notes pages originally prepared for this Petition have been omitted.</p>
Roberta DOD: 3/25/2012			
Cont. from 112912, 011813, 032213, 051013			
Aff.Sub.Wit.			
✓ Verified			
Inventory			
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Letters			
Duties/Supp			
✓ Objections			
Video Receipt			
CI Report			
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Order	X		
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			

<b>Reviewed by:</b> LEG
<b>Reviewed on:</b> 6/21/13
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 5B - LaBree</b>

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

## Status Conference

Frank DOD: 8/15/2006		<p><b>BARBARA L. PEARSON</b>, Trustor's daughter, Trust Beneficiary and Successor Trustee of the <b>FRANK H. LABREE IRREVOCABLE TRUST</b>, filed on 10/5/2012 a <b>Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust</b>, which was set for hearing on 11/29/2012.</p> <p><b>TRACY SPREIER</b>, Trustor's daughter and Trust Beneficiary, filed on 11/16/2012 an <b>Objection to the Petition for Settlement of First Account and Report of Trustee</b>, alleging self-dealing and breach of fiduciary duties by the Trustee.</p> <p><b>Joint Status Report filed 6/19/2013 states:</b></p> <ul style="list-style-type: none"> <li>Ms. Spreier's <i>Objections to the Petition for Settlement of the First Account of Trustee</i> consist of: (a) Ms. Pearson's reduction of the interest rate of 2 loans she made from the Trust, one loan to herself and one loan to her daughter, <b>SHANNON BADELLA</b>; (b) Ms. Pearson's travel expenses in the amount of <b>\$1,379.84</b>; and (c) lack of an explanation as to why Ms. Pearson did not collect any trustee compensation for 2010 or 2011;</li> <li>Ms. Pearson filed a Reply on 11/26/2012, addressing the issues raised in the objection;</li> <li>Since the filing of Ms. Pearson's Reply, the attorneys for the parties have engaged in discussions regarding the items at issue;</li> <li>Additionally, Ms. Spreier served written discovery on Ms. Pearson, and Ms. Pearson responded to the discovery and produced documents;</li> <li>Ms. Pearson is willing to submit the matter of the Petition and the Objection thereto to the Court for adjudication without a contested hearing;</li> <li>In the meantime, Objector's attorneys are evaluating the responses to the written discovery that was propounded;</li> <li><b>Objector TRACY SPREIER requests that the Court make a determination after a contested hearing, if the matter is not able to be resolved between the parties through their attorneys.</b></li> </ul>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><u>Page 7B</u> is the <i>Petition for Settlement of First Account and Report of Trustee of the LaBree Family Trust</i>.</p> <p><b>Continued from 5/10/2013.</b> Minute Order states Mr. Werner is appearing via conference call. Ms. Burnside advises the Court that they are making progress and she believes counsel will continue to meet and confer in an effort to resolve this matter. Matter continued to 6/28/2013.</p>
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Objections			
Video Receipt			
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Status Rpt			
UCCJEA			
Citation			
FTB Notice			
		<p><b>Reviewed by:</b> LEG</p> <p><b>Reviewed on:</b> 6/21/13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 7A - LaBree</b></p>	

Atty Dowling, Michael; Burnside, Leigh; Matlak, Steven; of Dowling Aaron (for Petitioner Barbara L. Pearson, Successor Trustee)

Atty Werner, David D., Field, Stefanie; of Gresham Savage Nolan & Tilden, Riverside (for Objector Tracy Spreier, Beneficiary)

**Petition for Settlement of First Account and Report of Trustee of the Frank H. LaBree Irrevocable Trust Dated March 26, 1992 [Cal. Prob. C. 1064(a), 17200, 17200(b)(5), CRC., Rule 7.902]**

Frank DOD: 8/15/2006		<b>BARBARA L. PEARSON</b> , Trustor's daughter, Trust Beneficiary and Successor Trustee of the <b>FRANK H. LABREE IRREVOCABLE TRUST</b> , is Petitioner.	<b>NEEDS/PROBLEMS/ COMMENTS:</b>
Roberta DOD: 3/25/2012			
Cont. from 112912, 011813, 032213, 051013		Account period: 10/10/2008 – 12/31/2011	<p><b>Continued from 5/10/2013.</b> Minute Order states Mr. Werner is appearing via conference call. Matter continued to 6/28/2013.</p> <p><b>Note:</b> Additional notes pages originally prepared for this <i>Petition</i> have been omitted.</p>
	Aff.Sub.Wit.	Accounting - <b>\$456,694.10</b>	
✓	Verified	Beginning POH - <b>\$421,894.79</b>	
	Inventory	Ending POH - <b>\$423,435.60</b> (\$334,115.35 is cash)	
	PTC	Trustee (Initial) - <b>\$3,510.00</b> (services prior to 10/10/2008 for initial Trustee, paid to Law Offices of Earl O. Bender)	
	Not.Cred.	Trustee (Current) - <b>\$600.00</b> (paid)	
✓	Notice of Hrg	Trustee Costs - <b>\$1,379.84</b> (paid) (reimbursement of 2010 travel expense)	
✓	Aff.Mail	Attorney - Not requested	
	Aff.Pub.	Accountant - <b>\$615.00</b> (paid) (to Erickson & Assoc., CPAs, as itemized in Disbursements schedule; Petitioner is employed by Erickson & Assoc.)	
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
	Letters		
	Duties/Supp		
✓	Objections	<b>Petitioner states:</b>	
	Video Receipt	<ul style="list-style-type: none"> <li><b>FRANK H. LABREE, Jr.</b>, created the <b>FRANK H. LABREE IRREVOCABLE TRUST</b> on 3/26/1992, which was funded initially by a life insurance policy on Frank (copy of Trust Agreement attached as Exhibit A);</li> <li>The initial Trustee was <b>EARL O. BENDER</b>, who resigned on 10/9/2008, and Petitioner succeeded as trustee; Petitioner is a resident of Auberry, California;</li> </ul>	
	CI Report		
	9202		
	Order	X	
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		
			<b>Reviewed by:</b> LEG
			<b>Reviewed on:</b> 6/21/13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 7B – Labree</b>

**8A Mark T. Felmus (CONS/E)**  
**Atty Wright, Janet L (for Petitioner, Jeremy Felmus)**  
**Atty Keeler, William ((for Petitioner, Jeremy Felmus)**  
**Atty Poochigian, Mark S. (for Proposed Conservatee Mark T. Felmus)**

**Case No. 13CEPR00104**

**Petition for Appointment of Temporary Conservatorship of the Estate**

<b>Age: 62 years</b>		<b><u>Temporary Expired on 3/29/13</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>JEREMY FELMUS</b> , son, is petitioner and requests the <b>PUBLIC GUARDIAN</b> be appointed as conservator of the estate.		<b>Continued from 4/26/13.</b>	
<b>Cont. from 022113, 030813, 032013, 032913, 042613</b>		<b><u>Estimated value of the estate:</u></b>		<b>Court Investigator Advised Rights on 2/11/13.</b>	
	<b>Aff.Sub.Wit.</b>		Personal property - \$500,000.00	1. Letters of Temporary Conservatorship have not issued.	
✓	<b>Verified</b>		Annual income - \$228,000.00		
	<b>Inventory</b>		<b>Total - \$728,000.00</b>		
	<b>PTC</b>		<p><b>Petitioner states</b> is 62 years old. For the past 3-4 years the proposed conservatee has had daily caregiving to assist him with is Activities of Daily living, including assisting him with bathing, dressing, meal preparation, transportation, supervision and administration of his medications. In late 2011, the proposed conservatee met his 47 year old, on again/off again girlfriend Jamie Piearcy. Petitioner believes that since that time Ms. Piearcy has engaged in a pattern of conduct designed to isolate the proposed conservatee from Petitioner and Petitioner's wife, Jessica, in order take advantage of his cognitive state for her personal financial gain to the unconscionable detriment of the proposed conservatee, including changing the locks on the proposed conservatee's home to prevent the Petitioner from checking on his father, discouraging or prohibiting contact between the Petitioner and the proposed conservatee, prohibiting the proposed conservatee from golfing at Copper River Country Club because that is where Mrs. Piearcy's spouse plays golf, taking over management of the proposed conservatee's finances, unduly influencing the proposed conservatee to transfer a ½ interest in his personal residence to her, unduly influencing the proposed conservatee to assign or allow Ms. Piearcy to collect his beneficial interest in a life insurance policy in the amount of \$500,000.00 and influencing the proposed conservatee to change his legal representation regarding his estate planning matters.</p>		
	<b>Not.Cred.</b>				
✓	<b>Notice of Hrg</b>				
✓	<b>Aff.Mail</b>	W/			
	<b>Aff.Pub.</b>				
	<b>Sp.Ntc.</b>				
✓	<b>Pers.Serv.</b>	W/			
	<b>Conf. Screen</b>				
	<b>Letters</b>	X			
	<b>Duties/Sup p</b>				
	<b>Objections</b>				
	<b>Video Receipt</b>				
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	<b>9202</b>				
	<b>Order</b>	X			
	<b>Aff. Posting</b>				
	<b>Status Rpt</b>				
	<b>UCCJEA</b>				
	<b>Citation</b>				
	<b>FTB Notice</b>				
			<b>Please see additional page</b>		
				<b>Reviewed by: KT</b>	
				<b>Reviewed on: 6/24/13</b>	
				<b>Updates:</b>	
				<b>Recommendation:</b>	
				<b>File 8A - Felmus</b>	

**8A**

**Objections to Petition for Appointment of Temporary Conservator filed 2/20/13 by Proposed Conservatee Mark T. Felmus states** appointment of a conservator of the estate is unnecessary because Objector is completely able to manage his own financial resources and resist fraud and undue influence.

The appointment of the Public Guardian as conservator of the estate is not in the best interests of the proposed conservatee. To the extent that the court determines that a conservator of the estate should be appointed, Objector hereby nominates Jamie Piearcy as such conservator of his estate, and if the court determines that a different conservator of the estate should be appointed, Objector hereby reserves the right to nominate another conservator of the estate that would be in the best interest of the proposed conservatee.

Objector alleges this is a straightforward case of a son not approving of his father's fiancée and nothing more. There is nothing in this case that suggests the need for a conservatorship.

Dr. Felmus's personal treating physician, Patrick A. Golden, M.D. and his longtime psychiatrist, Dwight D. Sievert, M.D., both have expressed their willingness to assist him in defending against the conservatorship petition. Dr. Sievert and Dr. Golden have both completed a Capacity Declaration, in which neither doctor indicated any apparent impairment in Dr. Felmus's mental functions.

Objector states the Petitions for Appointment of Temporary and Permanent Conservatorship are largely focused upon two transactions, i.e. (i) the transfer of a ½ interest in Dr. Felmus's residence to Ms. Piearcy, and (ii) the assignment of the proceeds of a life insurance policy payable to Dr. Felmus to Ms. Piearcy. It was entirely within Dr. Felmus's right to enter into these transactions which he has very reasonable explanations:

- A. On or about 8/27/12 Dr. Felmus conveyed an undivided ½ interest in his residence to Ms. Piearcy. This was entirely within Dr. Felmus's right. Dr. Felmus has explained that he was aware of his own mortality, and was concerned that if he died, Jeremy would "fight [Ms. Piearcy] for the residence. Dr. Felmus's concern in this area was apparently well placed given Jeremy's subsequent filing of the conservatorship petitions.
- B. After Dr. Felmus's mother died in November 2012, the trustee of her inter vivos revocable trust indicated that he wanted to use the proceeds of the life insurance policy – of which Dr. Felmus was the owner and sole beneficiary – to pay estate taxes owing as a result of his mother's death. Dr. Felmus was concerned that the Trustee would attempt to take control of those funds, so Dr. Felmus assigned the proceeds from such policy to Ms. Piearcy. Again, Dr. Felmus's concern was well placed, as the trustee apparently told the court investigator that "only the [the trustee] should have been able to claim the insurance policy on Dr. Felmus's behalf."

Dr. Felmus having established a revocable trust, and having executed a Durable Power of Attorney, establishment of a conservatorship of his estate is not the least restrictive alternative needed for the protection of the conservatee, such that no conservatorship should be granted.

**Please see additional page**



**Objections to Petition for Appointment of Temporary Conservator (faxed copy, original to follow) filed by Proposed Conservatee Mark T. Felmus (continued):**

**Objector hereby demands a jury trial on all issues triable by a jury.**

**Objector requests that:**

1. The Petition of Jeremy Felmus for appointment of a conservator of the estate of Mark T. Felmus be denied.
2. The Petition of Jeremy Felmus for the appointment of the Fresno County Public Guardian as conservator of the estate of Mark T. Felmus be denied.

**Supplemental Declaration of Jeremy Felmus in Support of Petition for Appointment of Temporary Conservatorship of the Estate filed on 2/20/13.**

**Court Investigator Samantha Henson's Report filed on 2/13/13**

**Order appointing Temporary Conservator dated 2/7/13 contains additional orders as follows:**

- All Durable Powers of Attorney executed by Mark T. Felmus nominating Jamie Piercy as his agent or attorney in fact are revoked.
- The Conservator of the Estate has the power to inquire as to the status of the payment under Lincoln National Life Insurance Company life insurance policy insuring the life of Ruth Felmus owned by Mark T. Felmus, to take the following actions:
  1. If the proceeds are still held by Lincoln National, to either request distribution to the Conservator of the Estate on behalf of Mark T. Felmus and hold them for the proposed conservatee's benefit; or
  2. If the proceeds have been collected, to take all necessary actions to obtain possession and control of the proceeds.
- Any assignment of the insurance proceeds from Lincoln National Life Insurance Company life insurance policy owned by Mark T. Felmus to another, including without limitation, Jamie Piercy, is invalid or void.
- The proposed conservatee's transfer of a ½ interest in the proposed conservatee's personal residence to Jamie Piercy is void and 100% ownership is returned to the name of Mark T. Felmus.

**Order After Hearing February 21, 2013** amends the Ex Parte Order dated 2/7/13 as follows:

- The Fresno County Public Guardian shall take no action to void or invalidate the Conservatee's transfer of a ½ interest in the proposed conservatee's residence at 2555 W. Bluff.
- The Fresno County Public Guardian shall record its Letters of Temporary Conservatorship in the chain of title regarding the 2555 W. Bluff property.
- There shall be no distribution of the life insurance proceeds held by Lincoln National Life Insurance Company regarding the policy insuring the life of Ruth Felmus and owned by Mark T. Felmus until further order of the court.
- Until further Order of the Court, the Fresno County Public Guardian shall take no action to marshal the Conservatee's monthly Social Security, disability or pension income.
- Until further Order of the Court, the Temporary Conservatee, shall not make any gifts to anyone of any new assets received by him, including but not limited to, by gift, inheritance, or distribution from a trust or other account or asset funded by Ruth Felmus, during the period the Court order is in effect. Nothing in this paragraph shall preclude the Temporary Conservatee from making gifts from income received by him in the normal course, such as from the Temporary Conservatee's monthly income, retirement, and disability payments.

**Minute order from 3/29/13 states,** Mr. Keeler advises the court that Mr. Poochigian has put together some proposed documents. All court is directed to respond to Mr. Poochigian's proposed documents by 4/3/13. Matter continued to 4/26/13. The court directs counsel to meet and confer before the next hearing.

## Motion for Reconsideration of Order Granting Temporary Conservatorship

Age: 62 years		<p><b>MARK T. FELMUS</b>, conservatee, is petitioner.</p> <p><b>JEREMY FELMUS</b>, conservatee's son, filed a petition for appointment of the PUBLIC GUARDIAN as temporary conservator of the Estate. Letters to expire on 2/21/13.</p> <p>On 2/7/13 the Court granted the Petition ex parte.</p> <p><b>2/13/13 MARK T. FELMUS</b> filed a Motion for Reconsideration of the Order Granting the Temporary Conservatorship and Advancing the Hearing and Shortening Time for Notice.</p> <p><b>Order dated 2/13/13 states:</b> The Ex Parte Application for Order Advancing the Hearing and Shortening Time on Motion for Reconsideration is granted as follows:</p> <ol style="list-style-type: none"> <li>1. The Motion for Reconsideration of Order Granting Temporary Conservatorship filed on 2/13/13 by Mark T. Felmus shall be heard on 2/21/13 at 9:00 a.m. in Dept. 303m concomitantly with the Petition for Appointment of Temporary Conservator filed on 2/6/13 by Jeremy Felmus.</li> <li>2. Notice of the Motion for Reconsideration of Order Granting Temporary Conservatorship shall be served on all interested parties 5 days prior to the 2/21/13 advanced hearing date.</li> <li>3. Order Appointing Temporary Conservator of the Estate granted ex parte on 2/7/13 remains in effect until the hearing on 2/21/13.</li> </ol> <p><b>Petitioner's Opposition to Conservatee's Ex Parte Application for an Order Advancing the Hearing and Shortening Time for Notice filed on 2/13/13</b> requests that the court deny the Conservatee's motion and allow the hearing occurring on 2/21/13 to occur as originally scheduled.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from 4/26/13.</b></p>
Cont. from 022113, 030813, 032013, 032913, 042613			
Aff.Sub.Wit.			
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Updates:
Recommendation:
File 8B - Felmus

**8C Mark T. Felmus (CONS/E)**  
**Atty Wright, Janet L (for Petitioner, Jeremy Felmus)**  
**Atty Keeler, William ((for Petitioner, Jeremy Felmus)**  
**Atty Poochigian, Mark S. (for Proposed Conservatee Mark T. Felmus)**

**Case No. 13CEPR00104**

**Petition for Appointment of Probate Conservator of the Estate (Prob. C. 1820, 1821, 2680-2682)**

<b>Age: 62 years</b>		<b><u>Temporary Expired on 3/29/13</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
		<b>JEREMY FELMUS</b> , son, is petitioner and requests the <b>PUBLIC GUARDIAN</b> be appointed as conservator of the estate.		<b>Continued from 4/26/2013.</b>  <b>Court Investigator Advised Rights on 3/13/13.</b>  1. Need Notice of Hearing.  2. Need proof of service of the Notice of Hearing along with a copy of the petition on: a. Sarah Felmus (daughter) b. Mark S. Poochigian (attorney for proposed conservatee, Mark T. Felmus)  3. Need Letters	
		<b><u>Estimated value of the estate:</u></b>			
		Personal property - \$500,000.00			
		Annual income - \$228,000.00			
		<b>Total - \$728,000.00</b>			
		<b>Petitioner states</b> is 62 years old. For the past 3-4 years the proposed conservatee has had daily caregiving to assist him with is Activities of Daily living, including assisting him with bathing, dressing, meal preparation, transportation, supervision and administration of his medications. In late 2011, the proposed conservatee met his 47 year old, on again/off again girlfriend Jamie Piearcy. Petitioner believes that since that time Ms. Piearcy has engaged in a pattern of conduct designed to isolate the proposed conservatee from Petitioner and Petitioner's wife, Jessica, in order take advantage of his cognitive state for her personal financial gain to the unconscionable detriment of the proposed conservatee, including changing the locks on the proposed conservatee's home to prevent the Petitioner from checking on his father, discouraging or prohibiting contact between the Petitioner and the proposed conservatee, prohibiting the proposed conservatee from golfing at Copper River Country Club because that is where Mrs. Piearcy's spouse plays golf, taking over management of the proposed conservatee's finances, unduly influencing the proposed conservatee to transfer a 1/2 interest in his personal residence to her, unduly influencing the proposed conservatee to assign or allow Ms. Piearcy to collect his beneficial interest in a life insurance policy in the amount of \$500,000.00 and influencing the proposed conservatee to change his legal representation regarding his estate planning matters.			
<b>Cont. from 032913, 042613</b>					
<input type="checkbox"/>	<b>Aff.Sub.Wit.</b>				
<input checked="" type="checkbox"/>	<b>Verified</b>				
<input type="checkbox"/>	<b>Inventory</b>				
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<input type="checkbox"/>	<b>Notice of Hrg</b>	<input checked="" type="checkbox"/>			
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<input type="checkbox"/>	<b>Duties/Supp</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Objections</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Video Receipt</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>CI Report</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>9202</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Order</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Aff. Posting</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>Status Rpt</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>UCCJEA</b>	<input type="checkbox"/>			
<input checked="" type="checkbox"/>	<b>Citation</b>	<input type="checkbox"/>			
<input type="checkbox"/>	<b>FTB Notice</b>	<input type="checkbox"/>			
<b>Please see additional page</b>				<b>Reviewed by: KT</b> <b>Reviewed on: 6/24/13</b> <b>Updates:</b> <b>Recommendation:</b> <b>File 8C - Felmus</b>	

**8C**

**Objections to Petition for Appointment of Temporary Conservator filed 2/20/13 by Proposed Conservatee Mark T. Felmus states** appointment of a conservator of the estate is unnecessary because Objector is completely able to manage his own financial resources and resist fraud and undue influence.

The appointment of the Public Guardian as conservator of the estate is not in the best interests of the proposed conservatee. To the extent that the court determines that a conservator of the estate should be appointed, Objector hereby nominates Jamie Piearcy as such conservator of his estate, and if the court determines that a different conservator of the estate should be appointed, Objector hereby reserves the right to nominate another conservator of the estate that would be in the best interest of the proposed conservatee.

Objector alleges this is a straightforward case of a son not approving of his father's fiancée and nothing more. There is nothing in this case that suggests the need for a conservatorship.

Dr. Felmus's personal treating physician, Patrick A. Golden, M.D. and his longtime psychiatrist, Dwight D. Sievert, M.D., both have expressed their willingness to assist him in defending against the conservatorship petition. Dr. Sievert and Dr. Golden have both completed a Capacity Declaration, in which neither doctor indicated any apparent impairment in Dr. Felmus's mental functions.

Objector states the Petitions for Appointment of Temporary and Permanent Conservatorship are largely focused upon two transactions, i.e. (i) the transfer of a ½ interest in Dr. Felmus's residence to Ms. Piearcy, and (ii) the assignment of the proceeds of a life insurance policy payable to Dr. Felmus to Ms. Piearcy. It was entirely within Dr. Felmus's right to enter into these transactions which he has very reasonable explanations:

- C. On or about 8/27/12 Dr. Felmus conveyed an undivided ½ interest in his residence to Ms. Piearcy. This was entirely within Dr. Felmus's right. Dr. Felmus has explained that he was aware of his own mortality, and was concerned that if he died, Jeremy would "fight [Ms. Piearcy] for the residence. Dr. Felmus's concern in this area was apparently well placed given Jeremy's subsequent filing of the conservatorship petitions.
- D. After Dr. Felmus's mother died in November 2012, the trustee of her inter vivos revocable trust indicated that he wanted to use the proceeds of the life insurance policy – of which Dr. Felmus was the owner and sole beneficiary – to pay estate taxes owing as a result of his mother's death. Dr. Felmus was concerned that the Trustee would attempt to take control of those funds, so Dr. Felmus assigned the proceeds from such policy to Ms. Piearcy. Again, Dr. Felmus's concern was well placed, as the trustee apparently told the court investigator that "only the [the trustee] should have been able to claim the insurance policy on Dr. Felmus's behalf."

Dr. Felmus having established a revocable trust, and having executed a Durable Power of Attorney, establishment of a conservatorship of his estate is not the least restrictive alternative needed for the protection of the conservatee, such that no conservatorship should be granted.

**Please see additional page**

**Objections to Petition for Appointment of Temporary Conservator (faxed copy, original to follow) filed by Proposed Conservatee Mark T. Felmus (continued):**

**Objector hereby demands a jury trial on all issues triable by a jury.**

**Objector requests that:**

3. The Petition of Jeremy Felmus for appointment of a conservator of the estate of Mark T. Felmus be denied.
4. The Petition of Jeremy Felmus for the appointment of the Fresno County Public Guardian as conservator of the estate of Mark T. Felmus be denied.

**Supplemental Declaration of Jeremy Felmus in Support of Petition for Appointment of Temporary Conservatorship of the Estate filed on 2/20/13.**

**Court Investigator Samantha Henson's Report filed on 3/14/13.**

**Order appointing Temporary Conservator dated 2/7/13 contains additional orders as follows:**

- All Durable Powers of Attorney executed by Mark T. Felmus nominating Jamie Piercy as his agent or attorney in fact are revoked.
- The Conservator of the Estate has the power to inquire as to the status of the payment under Lincoln National Life Insurance Company life insurance policy insuring the life of Ruth Felmus owned by Mark T. Felmus, to take the following actions:
  3. If the proceeds are still held by Lincoln National, to either request distribution to the Conservator of the Estate on behalf of Mark T. Felmus and hold them for the proposed conservatee's benefit; or
  4. If the proceeds have been collected, to take all necessary actions to obtain possession and control of the proceeds.
- Any assignment of the insurance proceeds from Lincoln National Life Insurance Company life insurance policy owned by Mark T. Felmus to another, including without limitation, Jamie Piercy, is invalid or void.
- The proposed conservatee's transfer of a ½ interest in the proposed conservatee's personal residence to Jamie Piercy is void and 100% ownership is returned to the name of Mark T. Felmus.

**Please see additional page**

**Order After Hearing February 21, 2013** amends the Ex Parte Order dated 2/7/13 as follows:

- The Fresno County Public Guardian shall take no action to void or invalidate the Conservatee's transfer of a ½ interest in the proposed conservatee's residence at 2555 W. Bluff.
- The Fresno County Public Guardian shall record its Letters of Temporary Conservatorship in the chain of title regarding the 2555 W. Bluff property.
- There shall be no distribution of the life insurance proceeds held by Lincoln National Life Insurance Company regarding the policy insuring the life of Ruth Felmus and owned by Mark T. Felmus until further order of the court.
- Until further Order of the Court, the Fresno County Public Guardian shall take no action to marshal the Conservatee's monthly Social Security, disability or pension income.
- Until further Order of the Court, the Temporary Conservatee, shall not make any gifts to anyone of any new assets received by him, including but not limited to, by gift, inheritance, or distribution from a trust or other account or asset funded by Ruth Felmus, during the period the Court order is in effect. Nothing in this paragraph shall preclude the Temporary Conservatee from making gifts from income received by him in the normal course, such as from the Temporary Conservatee's monthly income, retirement, and disability payments.

<b>Age: 62 years</b>	<b>JEREMY FELMUS</b> , son, petitioned to have the <b>PUBLIC GUARDIAN</b> appointed as conservator of the estate of his father, <b>MARK T. FELMUS</b> .	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	On 2/7/2003 the court appointed the <b>PUBLIC GUARDIAN</b> (ex parte) as temporary Conservator of the estate.	1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing verified status reports must be filed no later than 10 days before the hearing. Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.
<b>Cont. from</b>	<b>MARK T. FELMUS</b> , conservatee, filed a Motion for Reconsideration of Order Granting Temporary Conservatorship.	
<b>Aff.Sub.Wit.</b>		
<b>Verified</b>	<b>Minute Order dated 4/26/2013</b> on the Hearing re: Conclusion of this matter/Settlement Conference set this status hearing. Mr. Poochigian informed the court that he just received a draft of the document.	
<b>Inventory</b>		
<b>PTC</b>		
<b>Not.Cred.</b>		
<b>Notice of Hrg</b>		
<b>Aff.Mail</b>		
<b>Aff.Pub.</b>		
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<b>Conf. Screen</b>		
<b>Letters</b>		
<b>Duties/Supp</b>		
<b>Objections</b>		
<b>Video Receipt</b>		
<b>CI Report</b>		
<b>9202</b>		
<b>Order</b>		
<b>Aff. Posting</b>		
<b>Status Rpt</b>		
<b>UCCJEA</b>		
<b>Citation</b>		
<b>FTB Notice</b>		
		<b>Reviewed by: KT</b>
		<b>Reviewed on: 6/24/2013</b>
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 8D – Felmus</b>



**Probate Status Hearing Re: Filing of a Final Inventory and Appraisal; Failure to File  
a First Account or Petition for Final Distribution [Prob. C. 12200, et seq.]**

<b>DOD: 2/15/2008</b>		<p><b>DOROTHY SALWASSER</b> was appointed Administrator on 5/6/2013 with full authority and without bond.</p> <p>Inventory and Appraisal, partial no. 1 was filed on 10/27/2008 with a value of \$1,778,350.00.</p> <p>This status hearing was set for the filing of a final inventory and appraisal and for failure to file a first account or petition for final distribution.</p> <p><b>Status Report filed on 6/6/2013</b> states the Decedent's estate consists of primarily a 1/3 interest in the Walter Salwasser 1995 Family Trust. The Trust and the estate of the Decedent's father were involved in protracted litigation related to the administration of the trust estate, probate estate and the assets thereof, which litigation has since been resolved.</p> <p>The Administrator is currently working to obtain information regarding a few outstanding assets, and ten will prepare and file an updated inventory and appraisal. A petition for final distribution is already drafted and will be finalized once the inventory and appraisal is completed.</p> <p>Administrator reasonably believes that she can have the inventory and appraisal and a petition for final distribution filed with the Court well within 90 days.</p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
<b>Not.Cred.</b>			
<b>Notice of Hrg</b>			
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<b>Aff.Pub.</b>			
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<b>Order</b>			
<b>Aff. Posting</b>			
<b>Status Rpt</b>			
<b>UCCJEA</b>			
<b>Citation</b>			
<b>FTB Notice</b>			
		<b>Reviewed by: KT</b> <b>Reviewed on: 6/24/2013</b> <b>Updates:</b> <b>Recommendation:</b> <b>File 13 - Salwasser</b>	

<b>DOD: 1/8/2009</b>		<p><b>JAMES L. ELDER</b> was appointed Executor with Full IAEA without bond and Letters issued on 3-3-09.</p> <p><b>Final Inventory and Appraisal filed 2-22-11 reflects a total estate value of \$205,337.78</b>, including \$66,337.78 cash and real property in Fresno and Tulare Counties.</p> <p><b>MANUEL N. VIERRA</b>, former attorney for Executor James L. Elder petitioned the court to be relieved as counsel. On 12/11/12 the court granted attorney Vierra's request and set a status hearing for the possible removal of the executor for failure to proceed timely with the estate.</p> <p><b>Minute Order dated 1/15/13</b> states disclosure given by the Court regarding Fresno State University. Mr. Elder informs the Court that he has been unable to obtain counsel. The court accepts James Elder's resignation and appoints the Public Administrator.</p> <p><b>Letters issued to the Public Administrator on 1/31/13.</b></p> <p><b>Status Report of the Public Administrator filed 6/14/13 states</b> Deputy Noe Jimenez has been in touch with Mr. Elder, the former Administrator of the estate, who is cooperating. Deputy Noe Jimenez has received a check in the amount of \$5,000.00 from Mr. Elder, and Mr. Elder informed him that another will be coming. Deputy Jimenez needs an accounting from him. It is difficult because Mr. Elder is a pastor and has responsibilities to his church. The Public Administrator requests the next status hearing be set no sooner than 6 months from the date of this hearing.</p> <p><b>Note:</b> Decedent's will dated 12-10-08 devises specific personal property items to various charities and/or organizations, and devises the residue of the estate to the Fresno State University Foundation.</p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from 030113, 032913</b>			
<b>Aff.Sub.Wit.</b>			
<b>Verified</b>			
<b>Inventory</b>			
<b>PTC</b>			
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<b>Notice of Hrg</b>			
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<b>Citation</b>			
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		<b>Reviewed by: KT</b>	
		<b>Reviewed on: 6/24/2013</b>	
		<b>Updates:</b>	
		<b>Recommendation:</b>	
		<b>File 14 - Jaquay</b>	

**Probate Status Hearing Re: Failure to File a First Account or Petition for Final Distribution [Prob. C. 12200, et seq.]**

<b>DOD: 12/10/2010</b>	<b>LAWRENCE M. LOWE</b> was appointed Executor, with full IAEA authority and without bond on 6/2/2011.	<b>NEEDS/PROBLEMS/COMMENTS:</b>					
		1. Need current written status report pursuant to Local Rule 7.5 which states in all matters set for status hearing <b>verified status reports must be filed no later than 10 days before the hearing</b> . Status Reports must comply with the applicable code requirements. Notice of the status hearing, together with a copy of the Status Report shall be served on all necessary parties.					
<b>Cont. from</b>	Letters issued on 6/2/2011.	<table border="1"> <tr><td><b>Reviewed by:</b> KT</td></tr> <tr><td><b>Reviewed on:</b> 6/24/2013</td></tr> <tr><td><b>Updates:</b></td></tr> <tr><td><b>Recommendation:</b></td></tr> <tr><td><b>File 15 – Lowe</b></td></tr> </table>	<b>Reviewed by:</b> KT	<b>Reviewed on:</b> 6/24/2013	<b>Updates:</b>	<b>Recommendation:</b>	<b>File 15 – Lowe</b>
<b>Reviewed by:</b> KT							
<b>Reviewed on:</b> 6/24/2013							
<b>Updates:</b>							
<b>Recommendation:</b>							
<b>File 15 – Lowe</b>							
<b>Aff.Sub.Wit.</b>	Inventory and Appraisal filed on 3/6/12 showing an estate valued at \$765,111.17						
<b>Verified</b>							
<b>Inventory</b>							
<b>PTC</b>							
<b>Not.Cred.</b>							
<b>Notice of Hrg</b>	This status hearing was set for the filing of the First Account or Petition for Final Distribution.						
<b>Aff.Mail</b>							
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